

From: Rubin Bennett
To: Microsoft ATR
Date: 12/6/01 3:10pm
Subject: Proposed Settlement of Microsoft Antitrust case

I would like to share my thoughts regarding both the DOJ Final Judgement, and RedHat, Inc's response to Microsoft's proposed penalty phase.

First, I applaud the DOJ for your handling of this case.

I agree with RedHat's point that the "penalty" phase of the judgement must not be used to further Microsoft's monopoly presence in any market, be it schools or otherwise. At the same time, I applaud Microsoft for their ostensibly giving spirit. I think it would be a fine thing if Microsoft wanted to donate PC's to schools. I believe, however, that the PC's should not come with a "Microsoft only" clause.

Asking Microsoft to put in additional monies in lieu of the price tag of the software, however, is not realistic and the folks at RedHat know it. Software licenses are essentially a "zero cost" item - that is, once the operating system is built, the owner of the copyright can make an unlimited number of licenses, and the only additional cost to them is the paper that the license is printed on. Therefore, asking Microsoft to convert "zero cost" licenses into PC's on a dollar per dollar basis is quite unrealistic.

Taking the argument one step further, while I firmly believe that Microsoft must not be allowed to extend their monopoly by donating their product to schools, they must also not be required to further their competition (isn't fairness in business practices the cornerstone of this case?).

So I propose the following:

Enter a monetary figure as part of the judgement against Microsoft. Let Microsoft donate the computers, minus an operating system. The value of each system will be debited against the total judgement amount.

If they wish, they may include as part of the settlement a budgeted amount for each system that may be spent on an operating system and installation. If the OS comes in under budget, then the total value of the donation will be adjusted appropriately. The total must not go over the allotted budget. This amount will also be debited against the total value of the judgement.

If RedHat wishes to install their OS at no cost, (another fine gesture) so be it- the cost of the system to Microsoft (and the amount debited against the total judgement amount) will reflect only the cost of the hardware.

Obviously, Microsoft may not "mark up" any portion of the system (hardware or software). A penalty is not supposed to be a source of profit.

Thank you for taking the time to read this message.

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